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PSTM0015/MRK

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on April 26, 2006

Signature

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Application Number

09/680654

Filed

10/6/2000

First Named Inventor

David Allison Bennett, et al.

Art Unit

3629

Examiner

Webb, Jamisue A.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

Registration number 45744☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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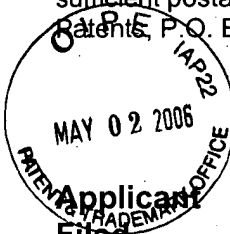
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Alexandra Allison

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bennett, et al. Application No.: 09/680,654
Filed : October 6, 2000 Docket No. : PSTM0015/MRK
Grp./Div. : 3629 Examiner : Webb, Jamisue A.
Title : APPARATUS, SYSTEMS AND METHODS FOR ONLINE, MULTI-CARRIER, MULTI-SERVICE PARCEL SHIPPING MANAGEMENT FEATURING SHIPPING RATE AND DELIVERY SCHEDULE COMPARISON FOR MULTIPLE CARRIERS

PRE-APPEAL BRIEF REQUEST FOR REVIEW REASONS

Mail Stop AF
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140 S. Lake Ave., Suite 312
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April 26, 2006

Commissioner:

In the Office Action dated January 27, 2006, a final rejection, Claims 1-21, 26-52, and 57-70 (sometimes referred to herein as the "rejected Claims") were rejected under 35 USC 103(a) as unpatentable over Kara (U.S. Pat. No. 6,233,568; "Kara") in view of UPS® Service Guide (www.ups.com), FedEx® Serices (www.fedex.com) and Barnett et al. (U.S. Pat. No. 6,369,840; "Barnett"). After carefully considering the rejections, a pre-appeal brief panel review of the rejection of the rejected Claims is respectfully requested on the grounds described in more detail below with reference to the Claims as amended, and the Remarks, in the Amendment and Response filed in response to the Office Action dated August 3, 2005. This Request is timely filed within the three-month period set by the Examiner because it is filed before the expiration of April 27, 2006. Reconsideration and allowance of the application are respectfully requested.

A. NO MPEP §706.02(j) PRIMA FACIE MOTIVATION TO COMBINE BARNETT

It is respectfully asserted that there is no teaching or suggestion, and the rejections did not identify any teaching or suggestion, found in the prior art, as required under MPEP §706.02(j), to combine Barnett with the other cited references. *See also* MPEP §2143. The Office Action cited col. 2 of Barnett to support the proposition that Barnett teaches "a simultaneous display of rates" (*see Office Action*, Topic 12). First, it is respectfully asserted that Barnett does not disclose any simultaneous display of rates (*see e.g., Barnett*, FIG. 9). Further, it is respectfully submitted that "... provid[ing] a multi-layered calendaring system wherein *events belonging to different categories...*" (as disclosed in Barnett, col. 2, lines 26 – 29 (emphasis added)), does not provide

any teaching or suggestion as required by MPEP §§706.02(j) to combine Barnett with the other cited references with respect to the subject matter of *e.g.*, Claim 1 of the present application for "... display[ing] ... a respective simultaneous online interactive graphic cross-comparison of ... shipping rates ..." regarding a *single event*, *i.e.*, "...deliver[ing] the respective particular parcel to a respective particular delivery destination ...".

B. NO SHOWING UNDER MPEP §2143 FOR EACH LIMITATION OF EACH CLAIM

Even assuming for the sake of argument that Barnett was properly combined with the other cited references, it is respectfully asserted that the rejections did not indicate, as required under MPEP §2143, how the cited references, even when combined, disclose, anticipate, teach or suggest each of the limitations of each of the rejected Claims. For example, the Office Action did not indicate how the cited references disclose, anticipate, teach or suggest each of the limitations of, *e.g.*, independent Claims 1, 32 and 63 of the present application, which are directed to, among other things, "... display[ing] ... a respective *simultaneous* online interactive graphic cross-comparison of a plurality of respective service-specific, carrier-specific shipping rates ..." (*cf. also, e.g.*, Claims 13, 27, 28, 44, 58, 59, and 64).

As compared to "Kara disclos[ing] a display where the rates of each carrier are displayed adjacent to the selected services"¹ (See Figures 8A)... "as stated in the Office Action ("OA") (at Topic ("T") 4), Kara and its Figure 8A do not disclose displaying rates of each carrier adjacent to the selected services. Rather, as compared to displaying shipping rates for each service of a plurality of services offered by each carrier of a plurality of carriers (as claimed in one way or another in Claims 1, 13, 21, 32, 44, 52, 63 and 64), Kara discloses a user pre-selection of a particular delivery service and a subsequent display of carrier-specific rates for the pre-selected delivery service adjacent to an identifier of the respective carrier. *See, e.g., Kara*, Figure 8A; Kara, col. 5, lines 56 – col. 6, line 6; Kara, col. 22, lines 21-48 (disclosing a "... program [that] automatically calculates the [shipping] fees for each shipping service provider offering service commensurate with the desired shipping and/or delivery parameters ..." Kara, col. 22, lines 39 – 42 (emphasis added)). Therefore, according to Kara, a user of Kara must first indicate the desired shipping and/or delivery parameters (*e.g.*, Overnight, Same Day, Next Day, 2-Day, or 3-Day) so that Kara will "...automatically calculate[] the [shipping] fees for each shipping service

¹ It is respectfully submitted that the Claims do not recite displaying rates adjacent to selected services.

provider offering service *commensurate with the desired shipping and/or delivery parameters.*" Kara, col. 22, lines 39 – 42 (emphasis added). That is, only once a user has indicated a desired type of service, will Kara calculate the shipping rate for each carrier that supports *the desired service* and then display the results. Further, Kara would display only one rate per carrier at a time. *See, e.g.*, Kara, FIG. 8. In order to obtain a comparison of rates using Kara, it is respectfully submitted that a user would need to successively indicate an "urgency", *e.g.*, "Overnight" on FIG. 8 of Kara, so that Kara would calculate the rates for the shipping service providers (depicted in Kara FIG. 8 as "US Post", "Federal Express", "DHL", "UPS", "Purolator", and "Emery") via each successively indicated "urgency". *See Kara*, col. 22, lines 39 – 42.

Further, it is respectfully submitted that neither the UPS® ("UPS") nor the FedEx® ("FedEx") references disclose a *simultaneous* cross-comparison display or calculation of rates with respect to *time and date*. Notably, for the reasons described in more detail in the Amendment and Response to the Office Action dated August 3, 2005, it is respectfully submitted that: FedEx does not disclose any calculation of rates; and as compared to a simultaneous cross-comparison calculation and display of rates with respect to time and date, UPS discloses only discrete rate calculations for particular delivery services.

As compared to the above-cited limitations of Claims 1, 32, and 63, FedEx discloses, *e.g.*, a service type, such as "FedEx Standard Overnight", and describes delivery as "Next-business-day delivery by 3 pm". *See also, UPS*. As compared to the above-cited limitations of *e.g.*, Claim 1, it is respectfully asserted that the description of a delivery service such as, *e.g.*, "Next-business-day delivery" is not disclosure of a "delivery date". Rather, as compared to the above-cited limitations of *e.g.*, Claim 1, in order to determine a delivery date, a FedEx or UPS user would need to consult a calendar (mentally or visually), and depending on the circumstances, may need to consult a clock, to determine the day and time of shipping and the corresponding "next business day." For example, if the user was shipping a package on, *e.g.*, a Friday, the user would need to identify the date of the following Monday, or if the following Monday were a holiday, the following Tuesday. *See, e.g., Specification*, page 61, line 25 through page 62, line 14 (disclosing that certain carriers and/or delivery services may not support delivery on certain days, for example, Saturdays, or Sundays). Further, if the user was shipping the package after a particular cut-off time, the package may not be delivered the following day but may be delivered two days after the shipment date. It is respectfully asserted that the above-

described steps that a FedEx or UPS user would have to take to determine the delivery date of the "next business day" are evidence that neither FedEx nor UPS disclose the above-cited limitations of Claims 1, 32 and 63.

Further, as compared to the above-cited limitations of Claim 1, UPS depicts multiple screen shots; each screen shot describes only one UPS® delivery service; and for each delivery service, UPS shows a "Quick Cost Calculator" link to determine shipping rates, availability and delivery times, but only for the particular delivery service.

It is respectfully submitted that, even though both UPS and FedEx disclose various delivery services, and even though UPS discloses a "Quick Cost Calculator" link for calculating a rate for a particular delivery service, there is no disclosure in either UPS or FedEx of a cross-comparison display or calculation of rates for the various UPS® or FedEx® delivery services for delivering a parcel by or before a respective particular parcel delivery time on a respective particular parcel delivery date, as compared to the limitations claimed in one way or another in, e.g., Claims 1, 32, and 63.

For similar reasons, it is respectfully submitted that independent Claims 26 through 31, 57 through 62, and 65-70 are also patentably distinct from a listing of various delivery service levels offered by a single carrier, e.g., overnight, 2-day, etc. as depicted, for example, in FIG. 8 of Kara and in the UPS® reference.

Yet further, it is therefore respectfully submitted that combining UPS and/or FedEx and/or Kara, none of which disclose, anticipate, teach or suggest a "...simultaneous online interactive graphic cross-comparison ... of ... rates ... for each respective service of a plurality of services offered by each respective carrier of a plurality of carriers ...", with a calendaring system such as Barnett (which does not disclose any simultaneous display of rates (see e.g., Barnett, FIG. 9), would not result in a system that would disclose, anticipate, teach or suggest the limitations of, e.g., Claims 1 and 32, for calculating rates for *each* respective service of a plurality of services offered by *each* respective carrier and displaying the calculated rates adjacent a display indicating a respective time and date, such as is claimed in Claims 1 and 32. Further, it is respectfully asserted that, even if fees for events were displayed in the Barnett calendar depicted in Figure 9, those fees would be associated with the *various* events calendared, as opposed to calculating and/or displaying rates for a *single* event (e.g., to ship a parcel (see, e.g., Claims 1 and 32), or, for delivery of a parcel (see, e.g., Claims 13 and 44), or for delivering

a parcel (*see, e.g.*, Claims 26 and 27)). Yet further, it is respectfully asserted that, even if fees for events were displayed in the Barnett calendar depicted in Figure 9, each of those fees would not, *e.g.*, correspond to a delivery of a first particular parcel by a first respective particular delivery time (*see, e.g.*, Claims 13 and 44).

Still further, it is respectfully asserted that the cited use of hyperlinks by Barnett (OA, T16) does not amount to a disclosure of, and does not anticipate, teach or suggest, the specific limitations of *e.g.*, Claims 29, 60, and 68 for detecting a clicking of a cell of an "online interactive display as a selection ... of a particular service ... by a particular carrier ... for shipping a particular parcel" or of Claims 30, 61 and 69, for detecting a "placement of a cursor... over a cell of an online interactive display as a selection ... of a particular service ... by a particular carrier... for shipping a particular parcel ..." or of Claims 31, 62 and 70, for responding "to a clicking ... of a cell of an online interactive display, by displaying an onscreen display of a shipping label for shipping a particular parcel with a particular carrier and a particular service ...".

C. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the invention disclosed and claimed in the present application is not fairly taught by any of the references of record, taken either alone or in combination, and that the application is in condition for allowance. Accordingly, reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

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